

LEGISLATIVE DIGEST

[Police Code - Gun Violence Restraining Orders]

Ordinance amending the Police Code to require the Police Department to obtain Gun Violence Restraining Orders in certain circumstances.

Existing Law

City law does not currently address the subject of GVROs. California Penal Code section 18100 et seq. allows local law enforcement agencies to use Gun Violence Restraining Orders (“GVRO”) as a tool for prohibiting and enjoining an individual from having custody or control, owning, purchasing, possessing, or receiving any firearms or ammunition when that individual poses an immediate and present danger of causing personal injury to self or others. Under existing California law, there are three possible types of GVROs: (1) the temporary emergency protective order, available to peace officers to address an immediate and present danger of causing personal injury to self or other; (2) the temporary ex parte GVRO, available to peace officers and family members, where there is a showing of a substantial likelihood that the individual poses a significant danger to self or others; and (3) the one-year ban, which may be imposed after notice and a hearing where there is a showing by clear and convincing evidence that the individual poses a significant danger of injury to self or others and there is no less restrictive alternative to protect against that danger. All three types of GVROs require a showing that the GVRO is necessary to prevent personal injury to self or others because less restrictive alternatives either have been tried and found to be ineffective, or have been determined to be inadequate or inappropriate for the circumstances.

Assembly Bills 12 and 61, enacted in 2019, become operative on September 1, 2020. Those bills expand the circumstances, procedure, and scope for the issuance of GVROs. The key changes are:

Expands the category of individuals who may seek a GVRO to employer, a coworker who has substantial and regular interactions with the person and approval of their employer, or an employee or teach of secondary or postsecondary school, with the approval of a school administrator staff member with a supervisory role.

Expands the duration of the gun violence restraining order from one year to a period of time between one and five years.

Amendments to Current Law

The proposed ordinance would require the Police Department to seek GVROs as authorized by state law.

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It is the policy of the City to use GVROs in circumstances where there is a nexus between the use or threat of use of a firearm or ammunition and the danger presented to self or others, and the GVRO is necessary to prevent an injury. This tool is not intended to be used in circumstances where there would be no value in obtaining a GVRO, such as when an individual is already prohibited from obtaining or having access to a firearm.

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